

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

BURNS, MORRIS & STEWART LIMITED	§	
PARTNERSHIP,	§	
	§	
<i>Plaintiff,</i>	§	Civil Action No. 9:04-CV-23
	§	
v.	§	
	§	JUDGE RON CLARK
ENDURA PRODUCTS, INC.,	§	
	§	
<i>Defendant.</i>	§	

**ORDER DIRECTING PARTIES TO DISCUSS CLAIM TERMS**  
**BEFORE MARKMAN HEARING**

Upon further review of the briefs and supporting materials it appears that the definitions provided by the parties for many of the allegedly disputed claim terms do not differ in any material respects (e.g., the proposed definitions for “top jamb”). Additionally, it is difficult to see how the minor differences in definitions of some of the terms could have any impact on the parties claims of infringement and invalidity.

The parties are ORDERED to confer prior to the *Markman* hearing to determine which claim terms can be agreed upon, and which are actually in dispute and material to the ultimate issues in this case. The resources of the parties and the court should not be wasted on resolution of distinctions without a difference.

So ORDERED and SIGNED this 21 day of April, 2005.



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Ron Clark, United States District Judge